

TOWN OF JERICHO

ORDINANCE REGULATING OPEN BURNING AND INCINERATION OF SOLID WASTE

WHEREAS, the Town of Jericho has, by virtue of the authority granted in 24 V.S.A. § 1971 (Title 24, Chapter 59, Section 1971), and 24 V.S.A. § 2202a(a) (Title 24, Chapter 61, Subchapter 8, Section 2202a), the power to adopt, amend, repeal, and enforce ordinances, and to manage and regulate the solid waste disposal within its boundaries; and

WHEREAS, the Town of Jericho has determined that open burning and incineration practices prohibited by this Ordinance constitute public nuisances, and the Town of Jericho has the authority to regulate and prohibit such practices by virtue of the authority granted in 24 V.S.A. § 2291 (14) (Title 24, Part 2, Chapter 61, Subchapter 11, Section 2291);

NOW, THEREFORE, to protect public health and safety and to promote the responsible use of resources and protection of the environment, the Selectboard of the Town of Jericho hereby adopts this ordinance to regulate open burning and incineration in the Town of Jericho, Vermont.

Article I: PURPOSE AND TITLE

- Purpose.**

This ordinance is enacted to promote the health, safety and general welfare of the inhabitants of the Town of Jericho and to regulate open burning and incineration practices that pose a danger to the public health and welfare and the environment or constitute a public nuisance. Although this ordinance provides for restricted open burning, residents are encouraged to utilize facilities provided by the Chittenden Solid Waste District as an alternative whenever possible.
- Title.**

This ordinance shall be known and may be cited as the “Ordinance Regulating Open Burning and Incineration of Solid Waste.”

Article II: DEFINITIONS

- A.

“Air contaminants” shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances or any combination thereof.
- B.

“Authority Having Jurisdiction (AHJ)” means the Town Forest Fire Warden or his designee and the Chief of the Underhill-Jericho Fire Department or his designee.
- C.

“Emission” shall mean a release of air contaminants.

- D. "Fuel" shall mean any form of combustible matter, solid, liquid or gas used to produce heat, light or power by burning, but excluding refuse. Fuel includes, but is not limited to, coal, coke, charcoal, natural gas, propane, gas, fuel oil and wood.
- E. "Incineration" means the burning of refuse in an enclosed container, such as a furnace, stove, incinerator or similar device.
- F. "Natural wood" means branches or brush less than four (4) inches in diameter that has not been chemically treated with preservatives, paint, oil, stain, adhesive or other chemical.
- G. "Non-woody vegetation" means leaves, grass, yard trimmings, and other organic materials.
- H. "Open Burning" shall mean any burning in the open or in an open container, specifically excluding burning that takes place in dwelling heating systems, cooking systems, candles or lamps and welding equipment.
- I. "Refuse" shall mean all solid or liquid wastes, including but not limited to: animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food; street cleanings; dead animals; abandoned automobiles; solid market and industrial wastes; paper; cardboard; tin cans; plastics; glass; bedding; crockery; plywood composite materials; dimensional lumber; pressure-treated materials; and other building materials.
- J. "Structure" means any assembly of materials for display, use or occupancy, including, but not limited to, buildings mobile homes, shipping and storage containers, carports, sheds, garages, and porches.

Article III: OPEN BURNING AND INCINERATION

§ 1. Burning Prohibited

- A. No refuse, or downed trees shall be burned through open burning or incineration, nor shall any structure be intentionally burned.
- B. No burning may occur within 200 feet of a woodland or timberland or field that contains dry grass.

§ 2. Burning Permit Requirements

- A. Residents wishing to burn natural wood and non-woody vegetation in accordance with this section shall obtain a permit from the AHJ before burning. Permits may contain any condition and shall be for specified days, specified location, and for specified material. The hours within which said burning may take place may be specified on the permit. The AHJ may inspect material to be burned prior to issuance of a permit or ignition and as a result of that inspection deny the burn request.
- B. Individuals possessing burn permits shall attend the fire until extinguished and shall have sufficient means readily available to them to keep the burn under control and to extinguish the burn immediately. Burns shall not smolder for any extended period of time.
- C. The AHJ can enter the property of the permit holder to investigate a fire and order the fire to be extinguished. If the permit holder refuses an order to extinguish, the AHJ may call the fire department to extinguish the fire. Any cost associated with the fire department extinguishing the fire is the responsibility of the permit holder.
- D. Individuals wishing to burn construction or demolition materials and commercial wastes shall first receive approval in the form of a Department of Environmental Conservation Burn Permit before seeking a permit from the AHJ.

§ 3. Permissible Open Burning.

- A. Nothing herein shall prevent the use of: campfires or bonfires less than thirty (30) inches in diameter; barbeque pits less than thirty (30) inches in diameter; the burning of fuels for cooking purposes; the recreational burning of natural wood in chimineas or similar open containers; or the open burning of natural wood or non-woody vegetation, including bonfires greater than thirty (30) inches in diameter, when the ground surrounding the area where the burning is to take place is covered with snow.
- B. Nothing herein shall prevent the burning of solid or liquid fuels, or structures for bona fide fire training provided that materials other than natural wood are removed to the greatest extent possible prior to the burning, and that notice has been provided to the Vermont Department of Environmental Conservation and Selectboard approval has been granted.
- C. Nothing herein shall prevent the Selectboard of Jericho, with prior approval from the Department of Environmental Conservation, from authorizing burning for the protection of public health or to thwart a hazard.
- D. Nothing herein shall prevent the burning of natural wood or any virgin fuel in a woodstove, fireplace, or furnace to produce heat or for the purpose of preparing food.

Article IV: PENALTIES AND CIVIL ENFORCEMENT

- A. This ordinance is a civil ordinance and enforcement shall be brought in the judicial bureau in accordance with 24 V.S.A. § 1974a et seq.
- B. Any person(s) igniting an open burn with or without a permit may be liable for the cost to extinguish the fire and for any damages caused thereby.
- C. The penalties for violating this ordinance are as follows:

1st offense: Delivery of written Notice of Violation by Enforcement Personnel as noted in this ordinance (demand to cease burning immediately)

	<u>Civil Penalty</u>	<u>Waiver Fee</u>
2nd offense:	\$100.00	\$50.00
3rd offense:	\$250.00	\$125.00
4th and subsequent offenses:	\$500.00	\$300.00

The waiver fee is paid by a violator who admits or does not contest the violation.

Offenses shall be counted on a calendar year basis.

- D. The Town may make application to the judicial bureau for an order to cease a violation of this ordinance. The Town Administrator or his designee is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law. Any additional injunctive relief shall be brought in superior court.

Article V: DESIGNATION OF ENFORCEMENT PERSONNEL

- A. For the purposes of this ordinance, the Selectboard may designate any combination of the following persons as enforcement personnel: members of the Selectboard, Town Health Officer, Fire Warden and any official with law enforcement authority under Vermont law.

Article VI: REPEAL OF INCONSISTENT PROVISIONS

- A. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Article VII: SEVERABILITY

- A. This ordinance and its various parts, sentences, sections, and clauses are hereby declared to be severable. If any part, sentence, section or clause is adjudged invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Article VIII: EFFECTIVE DATE

This ordinance shall become effective 60 days after the adoption date shown below.

Adopted this 21st day of October 2010 by the legislative body of the Town of Jericho.

Catherine McMains, Chair

Tim Nulty

Kimberly Mercer